

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF NEW MEXICO,

Plaintiff,

vs.

No. CR 19 4047 JB

HENRY FELIX,

Defendant.

**UNOPPOSED MOTION FOR EXTENSION OF TIME IN WHICH TO FILE
PRE- TRIAL MOTIONS AND MOTION TO CONTINUE TRIAL OF MARCH 2, 2020**

COMES NOW Defendant Henry Felix, by and through his attorney of record Martin Lopez III, P.C. (Martin Lopez, III) and hereby moves the Court for an Order granting an extension of time in which to file pre-trial motions and continue trial of March 2, 2020 and as grounds states:

1. On December 24, 2019 Counsel for Defendant filed a Motion for Extension of Time to File Pretrial Motions and Motion to Continue Trial of January 13, 2020 (Amended). (Doc. 24). On December 30, 2019 the Court scheduled jury selection/trial for March 2, 2020. (Doc. 25).

2. On February 18, 2020 counsel for Defendant Felix received a proposed plea agreement from the Government. Counsel immediately forwarded it to Defendant Felix who was housed outside Albuquerque at the Cibola County Detention Center, Milan, New Mexico.. Upon receipt, counsel also attempted to schedule an immediate meeting with Defendant in hopes of expeditiously resolving this case. Cibola County Detention Center was unable to schedule an immediate meeting. Thereafter, counsel learned Defendant Felix was moved without notification to counsel to the Torrance County Detention Center, Estancia, New Mexico. Counsel was able to schedule a conference with Defendant Felix for the latter part of this week in order to fully discuss the proposed plea agreement.

3. The parties are finalizing plea negotiations and will soon determine whether this case will be resolved by either plea or will proceed to trial. It is counsel's belief the case will resolve through plea.

4. It would not be an efficient use of either prosecutorial or judicial resources to prepare for trial if this matter can be resolved by way of a non-trial disposition. Defendant has previously waived his right to a speedy trial and counsel concurs in this motion to allow sufficient time for Defendant to make an informed decision of the disposition of the case.

5. Pursuant to 18 U.S.C. §3161(h)(7)(A) such time between the Speedy Trial deadline and the commencement of the trial should be excluded for purposes of the Speedy Trial Act because the ends of justice that would be served by granting the requested continuance outweigh the best interests of the public and the Defendant in a speedy trial.

6. Defendant is aware the Government has filed a Notice of Related Cases notifying this Court that the subject matter in Defendant Henry Felix's case is related to the subject matter in the following nine (9) cases: U.S. v. Angel DeLeon, et al., CR No. 15-4268 JB; U.S. v. Anthony Baca et al., CR 16-1613 JB; U.S. v. Gary Coca, No. 19 MJ 3023; U.S. v. Jonathan James Gomez, a.k.a. "Baby G," CR No. 19-3725 JB; U.S. v. Rufino Jody Martinez, a.k.a. "Mono," CR 19-3725 JB; U.S. Gregory Montoya, a.k.a. "Jinx," No. 19 MJ 3231; U.S. v. Anthony Paul Salazar, No. 19-MJ-3233; U.S. v. Leopoldo Salazar, No. 19-MJ-3232; and U.S. v. Robert Trujillo, No 19-MJ-2999. (Doc. No. 16). The common thread in all of the above "related" cases involve the FBI's investigation into the SNM (Sindicato Nuevo Mexico) gang which began in March 2015 when leaders of the gang called for the murder of two high ranking members of the New Mexico Corrections Department. The threat culminated in late 2015, when incarcerated leaders of the SNM gang directed members on the street to acquire firearms and kill the NMCD officials.

7. Counsel has been actively investigating the role, if any, of Defendant Felix as to his alleged criminal acts and that of the other nine (9) listed "related" defendants. Counsel appreciates and understands that relevant conduct is a principle that impacts nearly every aspect of the Court's consideration and application of the United States Sentencing Guidelines as it relates to Defendant Felix's case. Relevant conduct reflects the sentencing guidelines' consideration of characteristics of the offense and the defendant's conduct beyond the count(s) of conviction alone, while also

placing limits, specific to the type of offense, on the range of conduct that is appropriately considered. Relevant conduct affects a defendant's offense level as determined by Chapter Two, as well as the role and multiple count adjustments in Chapter Three, criminal history calculations in Chapter Four, and adjustments for undischarged terms of imprisonment in Chapter Five. See USSG §1B1.3(a), (b).

8. The ends of justice are best served by granting this extension as it is anticipated that the case will require additional time sufficient to complete a negotiated disposition. The statements and averments made within this motion are not made for undue delay, but rather to provide Defendant with effective assistance of counsel. the time limits set forth within the Speedy Trial Act, 18 U.S.C. § 3161(c)(1) and the Sixth Amendment of the United States Constitution in making this request.

9. Counsel for Defendant Felix sought concurrence from Assistant U.S. Attorney Maria Ysabel Armijo and U.S. Attorney Randy M. Castellano and they do not oppose this motion or the time limit requested to complete negotiations.

WHEREFORE, Counsel respectfully requests that the Court grant an extension of time in which to file pretrial motions, if any, until March 30, 2020 and continue the trial of March 2, 2020 to the Court's next trial calendar.

Respectfully submitted,

MARTIN LOPEZ, III
A Professional Corporation

Electronically filed February 25, 2020
Martin Lopez, III
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th of February, 2020, I filed the foregoing pleading electronically through the CM/ECF system, which caused the following to be served by electronic means, as more fully reflected on the Notice of Electronic Filing to the following:

Maria Ysabel Armijo
E-Mail: maria.armijo@usdoj.gov

Randy M. Castellano, AUSA
E-Mail: randy.castellano@usdoj.gov

Electronically filed February 25, 2020
Martin Lopez, III